

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

TAMMY R. DAVIS,

Plaintiff,

v.

SUPERVALU, INC., d/b/a ACME
MARKETS and JOHN DOES 1-5,

Defendants.

HON. JEROME B. SIMANDLE

Civil No. 13-414 (JBS/JS)

ORDER

This matter having come before the Court upon Defendant Supervalu's Motion to Dismiss Counts II and III of Plaintiff Tammy R. Davis's complaint [Docket Item 4]; the Court having considered the submissions of the parties; for the reasons explained in the Opinion of today's date; and for good cause shown;

IT IS this 18th day of **April, 2013** hereby

ORDERED that Defendant Supervalu's Motion to Dismiss Counts II and III of the complaint is GRANTED; and it is further

ORDERED that the dismissal of Count II alleging a statutory retaliation claim pursuant to the NJLAD and CEPA is dismissed with prejudice as any amendment would be futile; and it is

ORDERED that the dismissal of Count III alleging a wrongful discharge claim based on discrimination will be dismissed with prejudice as this claim is preempted by the NJLAD; and it is

ORDERED that the dismissal of Count III alleging a wrongful

discharge claim based on retaliation is dismissed without prejudice to the Plaintiff filing a motion for leave to amend; and it is further

ORDERED that the Plaintiff must file a motion to amend within fourteen (14) days of the entry of this Order and the Plaintiff's proposed amended complaint must cure the deficiencies identified in the court's Opinion with respect to Count III's allegation of discharge based on retaliation.

s/ Jerome B. Simandle
JEROME B. SIMANDLE
Chief U.S. District Judge